

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1113 - SB 1129

February 25, 2017

SUMMARY OF BILL: Removes the mandatory minimum sentence for drug offenses committed within a school zone. Removes conspiracy to commit a drug offense within a school zone from the possibility of enhancement. Authorizes current inmates serving a sentence for drug offenses committed in a school zone to petition for recalculation of their release eligibility date.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$52,900

Decrease State Expenditures – \$6,426,900/Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-17-432 enhances any drug offense, or conspiracy to commit a drug offense, under Tenn. Code Ann. § 39-17-417 one classification if committed within 1,000 feet of a school.
- To deter such conduct, Tenn. Code Ann. § 39-17-432 requires each person convicted under this section to serve at least the minimum sentence for the defendant's appropriate range of sentence before being eligible for release.
- The proposed legislation removes conspiracies to commit a violation of Tenn. Code Ann. § 39-17-417 from being enhanced and removes the mandatory minimum sentence requirement.
- Statistics from the Department of Correction (DOC) show annual admissions for violations of Tenn. Code Ann. § 39-17-417 in school zone as follows:
 - Class A related offenses – 10.1 admissions;
 - Class B related offenses – 20.8 admissions;
 - Class C related offenses – 10.2 admissions.
- It is assumed that the average offender is sentenced within range I, which carries the following minimum sentence for each felony class:
 - Class A related offenses – 15 years;
 - Class B related offenses – 8 years;
 - Class C related offenses – 3 years.

- It is assumed that the average offender will serve approximately 33 percent of the minimum sentence received. It is assumed that the average offender will serve the following time under the proposed legislation:
 - Class A related offenses – 4.95 years (15 years x 0.33);
 - Class B related offenses – 2.64 years (8 years x 0.33);
 - Class C related offenses – 0.99 year (3 years x 0.33).
- No recidivism discount applies because the proposed legislation results in less time served.
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one additional (10.1 x 0.1178) class A felony admission for a total of 11 (10 + 1), two additional (20.8 x 0.1178) class B felony admissions for a total of 23 (21 + 2), and one additional (10.2 x 0.1178) class C felony admission for a total of 11 (10 + 1).
- The proposed legislation will result in each class A felony admission serving 10.05 (15 – 4.95) fewer years (3,670.76 days).
- The proposed legislation will decrease state incarceration costs by \$2,776,012 (11 admissions x 3,670.76 days x \$68.75 per day).
- The proposed legislation will result in each class B felony admission serving 5.36 (8 – 2.64) fewer years (1,957.74 days).
- The proposed legislation will decrease state incarceration costs by \$3,095,676 (23 admissions x 1,957.74 days x \$68.75 per day).
- The proposed legislation will result in each class C felony admission serving 2.01 (3 – 0.99) fewer years (734.15 days).
- The proposed legislation will decrease state incarceration costs by \$555,201 (11 admissions x 734.15 days x \$68.75 per day).
- The total decrease in state incarceration costs is \$6,426,889 (\$2,776,012 + \$3,095,676 + \$555,201).
- The proposed legislation does not create any new offenses, but rather impacts sentencing of current offenses. It is assumed that the courts, public defenders, and district attorneys can accommodate any impact to their operations within existing resources.
- The proposed legislation will impact the workload of DOC employees working with sentencing orders and with the parole process. The DOC will need to employ one full-time position of Sentencing/Docketing Analyst 2. The salary for a Sentencing/Docketing Analyst 2 is \$34,900 and requires \$5,300 in recurring expenditures for supplies, travel, technology-related expenses, and training.
- The recurring increase in state expenditures relative to the analyst position is estimated to be \$52,917 (\$34,900 salary + \$12,717 benefits + \$5,300 other).

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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